

**PALM BEACH COUNTY
PLANNING, ZONING, AND BUILDING DEPARTMENT
ZONING DIVISION**



**ADMINISTRATIVE VARIANCE – TYPE 1 - STAFF PUBLIC MEETING
STAFF REPORT
6/30/2023**

AGENDA ITEM	CODE SECTION	REQUIRED	PROPOSED	VARIANCE
AV-2023- 00467	5.B.1.A Accessory Structure Dimension	25% of the distance between property lines	36% percent of the distance between north- south property lines and 29 percent of the distance between the east-west property lines.	11% percent of the distance between property lines north-south and 5% of the distance between the east-west property lines
SITUS ADDRESS:	3930 Pot O' Gold St. West Palm Beach, 33406			
PCN:	00-43-44-07-08-000-1190			
OWNER NAME & ADDRESS:	Marvin and Linda Jones 3930 Pot O' Gold St. West Palm Beach, FL 33406			
AGENT NAME & ADDRESS:	Self-representing			
PROJECT MANAGER:	Imene Haddad, Senior Site Planner			
CONTROL NO:	2022-00090			
ZONING DISTRICT:	Multi-Family Residential-RM			
LAND USE:	Medium Residential-MR-5			
BCC DISTRICT:	03, Commissioner Michael A. Barnett			
LOT AREA:	0.39 acres			
CONFORMITY OF LOT:	Conforming			
CONFORMITY OF ELEMENT:	Not built			
TYPE OF ELEMENT:	Shed			
ELEMENT SIZE:	N/A			
BUILDING PERMIT #:	Under review PR-2022-025018-0000			
NOTICE OF VIOLATION:	N/A			
CONSTRUCTION STATUS:	Proposed			

SUMMARY: The subject property is located at 3930 Pot O' Gold Street, on the southwest corner of Pot O' Gold Street and Sunset Road and is developed with a Single Family Residence and an accessory shed. The Applicant is proposing to construct a **1,440 sq.ft. (40'x36')** accessory structure (detached garage). The lot measures approximately 0.39 acres and is fairly rectangular with a dual frontage of 99.99 feet on Pot O' Gold Street and 172.75 feet on Sunset Road.

Pursuant to Article 5.B.1.A of the Unified Land Development Code (ULDC), in residential districts located in the U/S tier, the length of all accessory structures may not be more than 25 percent of the distance between property lines. The distance between the front and rear property lines of the subject parcel is 172.75 feet, and 99.99 between the side property lines. This would allow a maximum dimensions of 43.18 ft. between the north and south property lines and 25 feet between the east and west property lines for all accessory structures.

The proposed accessory structure is a 36'x40' detached structure that will be situated in the rear yard of the property where there is already an existing 26.6'x11.8' shed, which will remain. The requested variance will allow the proposed detached garage, to occupy a maximum of 36 percent of the distance between the north-south property lines. The distance between the side (east-west) property lines is 99.99, and the accessory structures occupy 36 feet (36 percent) of this distance and the accessory structures occupy 51.8 feet (29 percent).

STAFF RECOMMENDATIONS: Staff recommends approval, subject to the Conditions of Approval as indicated in Exhibit C.

PUBLIC COMMENT: At time of publication, Staff has received no comments from the public regarding this application.

FINDINGS

When considering a Development Order application for a Type 1 Variance, the DRO shall consider Standards a through g listed under Article 2.C.5.E.4, Standards for a Zoning Variance. The Standards and Staff Analyses are as indicated below. A Type 1 Variance that fails to meet any of these Standards shall be deemed adverse to the public interest and shall not be approved.

1. *Special conditions and circumstances exist that are peculiar to the parcel of land, building, or structure, that are not applicable to other parcels of land, structures, or buildings in the same zoning district:*

YES. The purpose of accessory structure size restrictions in the ULDC (Unified Land Development Code) is to ensure the preservation of the zoning district's character, promote appropriate land use, and protect the overall visual aesthetics of the area. These restrictions, outlined in Article 5.B.1.A, aim to prevent accessory structures such as sheds, garages, and detached buildings from overpowering or overshadowing the main structures on a property or the surrounding properties.

In the case of the subject property, despite the proposed accessory structure exceeding the maximum dimensions of 25 percent of the distance between the lot lines specified by the ULDC, the intent of the code is still met. The property is developed with a Single Family residence and is allowed to adhere to the property development regulations of the Residential Single Family (RS) Zoning District because of the use. As outlined in Table 3.D.1.A. In the RS district, the minimum lot size is 6,000 sq. ft., minimum width is 65 feet, and minimum depth is 75 feet. The subject property surpasses these minimum dimensions, a lot size of 17,010.3 sq. ft., a width of 99.99 feet, and a depth of 172.75 feet.

Currently, the property lacks a garage, and the property owner parks their car in the driveway. The proposed garage satisfies the required setbacks for accessory structures, which mandate a distance of 5 feet from the rear and interior side lot lines and 15 feet from the corner side lot line. If the garage were attached to the principal structure, it would also comply with the setbacks for the main dwelling, eliminating the need to adhere to the accessory structure size restriction of 25 percent of the distance between lot lines. However, the Applicant faced constraints in constructing an attached garage due to the presence of a screened patio positioned at the rear of the home (as shown in Figures 3 and 4).

While the proposed accessory structure exceeds the maximum dimensions set by the ULDC, the specific circumstances of the property, including its size and the location of the structure, align with the intent of the code.

Figure 3- Front View



Figure 4- Side View



2. *Special circumstances and conditions do not result from the actions of the applicant:*

YES. . The unique configuration of the lot, the positioning of the home, the lack of an attached garage, and the fact that it is a corner lot are inherent characteristics that existed before the Applicant's involvement.

3. *Granting the variance shall not confer upon the applicant any special privilege denied by the comprehensive plan and this code to other parcels of land, buildings, or structures in the same zoning district:*

YES. Granting the variance shall not confer upon the Applicant any special privilege denied by the comprehensive plan and this code to other parcels of land, buildings, or structures in the same zoning district. The Applicant is requesting a variance to allow an increase to 36 percent from the required 25 percent distance between side property lines due to the constraints of the site.

4. Literal interpretation and enforcement of the terms and provisions of this code would deprive the applicant of rights commonly enjoyed by other parcels of land in the same zoning district, and would work an unnecessary and undue hardship:

Literal interpretation and enforcement of the terms and provisions of this code would deprive the Applicant of rights commonly enjoyed by other parcels of land in the same zoning district and would cause unnecessary and undue hardship.

5. Grant of variance is the minimum variance that will make possible the reasonable use of the parcel of land, building, or structure:

YES. Due to the constraints of the site, the requested variance is the minimum relief that will allow the applicant the reasonable use of their property.

6. Grant of the variance will be consistent with the purposes, goals, objectives, and policies of the comprehensive plan and this code:

YES. Granting of the variance will be consistent with the proposed, goals, objectives, and policies of the Comprehensive Plan and the Code. One of the primary goals and objectives of the Plan and the ULDC is to mitigate any potential impact by ensuring properties adhere to the required accessory structures dimensions of the Zoning District.

7. The grant of the variance will not be injurious to the area involved or otherwise detrimental to the public welfare:

The grant of the variance will not be injurious to the area involved or otherwise detrimental to the public welfare. The accessory structures are not visible from the right-of-way.

CONCLUSION: Staff has evaluated the Applicant's justification and responses for Standards of Article 2.C. for the Type 1 Variance and determined that there is a balance between the need for change and the potential impacts generated by this change. Therefore, Staff is recommending approval of the request subject to the recommended Conditions of Approval as indicated in Exhibit C.

CONDITIONS OF APPROVAL

EXHIBIT C:

Type 1 Variance

1. The approval is based on the documents submitted with the application and depicted on the survey dated June 17, 2021. Modifications to the Development Order inconsistent with the Conditions of Approval, or changes to the accessory structures and design beyond the authority of the Development Review Officer as established in the Unified Land Development Code, must be approved by the Zoning Commission. (ONGOING: ZONING - Zoning)

2. The Property Owner shall obtain approval of a building permit for the accessory structure prior to June 30, 2024. . (BLDGPMT/DATE: BUILDING DIVISION – Zoning)

COMPLIANCE

1. In Granting this Approval, the Development Review Officer relied upon the oral and written representations of the Property Owner/Applicant both on the record and as part of the application process. Deviations from or violation of these representations shall cause the Approval to be presented to the Board of County Commissioners for review under the Compliance Condition of this Approval. (ONGOING: MONITORING - Zoning)

2. Failure to comply with any of the Conditions of Approval for the subject property at any time may result in:

- a. The Issuance of a Stop Work Order; the Issuance of a Cease and Desist Order; the Denial or Revocation of a Building Permit; the Denial or Revocation of a Certificate of Occupancy; the Denial of any other Permit, License or Approval to any developer, Owner, lessee, or user of the subject property; the Revocation of any other Permit, License or Approval from any developer, Owner, lessee, or user of the subject property; the Revocation of any concurrency; and/or,
- b. The Revocation of the Type 1 Variances; and/or,
- c. A requirement of the development to conform with the standards of the Unified Land Development Code at the time of the finding of non-compliance, or the addition or modification of Conditions reasonably related to the failure to comply with existing Conditions; and/or
- d. Referral to Code Enforcement; and/or
- e. Imposition of entitlement density or intensity.

Staff may be directed by the Executive Director of PZ&B or the Code Enforcement Special Master to schedule a Status Report before the body which approved the Type 1 Variances, in accordance with the provisions of Section 2.E of the ULDC, in response to any flagrant violation and/or continued violation of any condition of approval. (ONGOING: MONITORING - Zoning)

DISCLOSURE

1. All applicable state or federal permits shall be obtained before commencement of the development authorized by this Development Permit

Figure 1 – Aerial

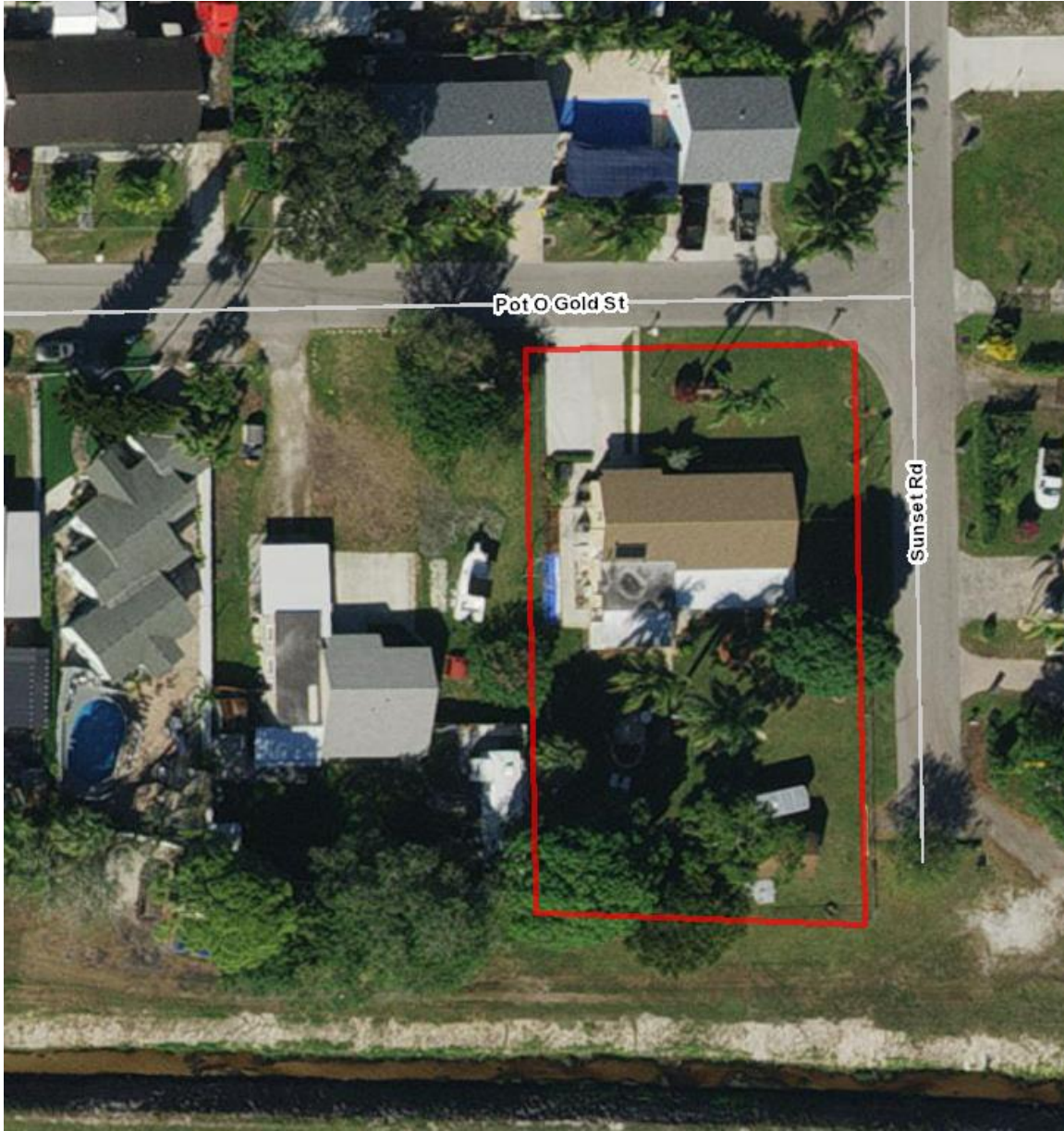


Figure 2 – Boundary Survey dated June 17, 2021

